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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,243	04/04/2005	Shuhei Kurata	P1293US	2656
1218	7590	09/19/2007	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			CRAIG, PAULA L	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,243

Applicant(s)

KURATA ET AL.

Examiner

Paula L. Craig

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8 and 12-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8 and 12-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The objections to Claims 22 and 23 are withdrawn in light of Applicant's amendments filed July 16, 2007. For Claims 1, 8, and 12-21, Applicant's arguments filed July 16, 2007 have been fully considered but they are not persuasive. Applicant argues that Popp does not teach divergent raised portions. However, Fig. 2 shows that the leg elastic members 58 diverge away from one another, while Fig. 1 shows that the portion between the leg elastic members 58 bulges outward in a divergent raised portion. Applicant's arguments with respect to Claims 22 and 23 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. The rejections of Claims 1, 8, and 12-21 under 35 U.S.C. 102(e) as being anticipated by Popp (US 6,635,041) are maintained for the reasons of record, as well as the reasons described above in paragraph 1.

5. Claims 1, 8, 12-17, 20, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,210,387 to Rudberg et al.

6. For Claim 1, Rudberg teaches a disposable wearing article including an absorbent body having opposite front and rear ends and opposite first and second sides extending between the ends (Abstract, Figs. 1-2, col. 2, lines 42-61). A pair of right and left primary elastic members is bonded in their stretched state to at least one cover sheet that is attached to a back portion of the absorbent body (elastic threads 14, 18, and 19 and the elastic thread of elastic portion 14' are visible on right and left sides of Figs. 1-2; Abstract, col. 2, line 42 to col. 4, line 53). Each of the primary elastic members has an approximately linear portion in an approximately laterally central zone of the back portion inwardly of the opposite first and second sides keeping a constant distance from the other primary elastic member (linear portion is located on the narrowest part of the crotch portion in Figs. 1 and 2; col. 3, line 49 to col. 4, line 9; note that the claim does not require that the linear portion has any particular length). The article of Rudberg is fully capable of allowing a central zone of a skin-side surface of the absorbent body between the right and left primary elastic members to be formed as a linear raised portion by an action of a contractile force in the approximately linear portion and independent of any forces exerted by a wearer (Figs. 1-2, col. 3, line 49 to

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col. 4, line 9). Rudberg teaches each of the primary elastic members having at least one divergent portion extending from the approximately linear portion towards at least one of the front and rear ends of the absorbent body and outwardly to define at least one divergent pattern (divergent portion extends from the narrowest part of the crotch portion towards the ends; Figs. 1-2, col. 2, line 42 to col. 4, line 18; note for example that in the rear portion 7 the elastic threads of curved elastic portion 14' on the right and left sides of the article diverge from each other starting at the linear portion, then converge, then diverge again after intersection 15, while elastic threads 19 on the right and left sides of the article diverge starting at the linear portion, and do not converge). The article of Rudberg is fully capable of allowing a divergent zone of the skin-side surface of the absorbent body in the divergent pattern to be formed as a divergent raised portion by an action of a contractile force in the divergent portion, the divergent raised portion being contiguous to the linear raised portion (Figs. 1-2, col. 2, line 42 to col. 4, line 18).

7. For Claim 8, Rudberg teaches a disposable wearing article including a cover sheet having opposite front and rear ends and opposite first and second sides extending between the ends, and an absorbent body attached on a skin-side surface of the cover sheet (Abstract, Figs. 1-2, col. 2, lines 42-61). A pair of right and left primary elastic members is bonded in their stretched state to the cover sheet (elastic threads 14, 18, and 19 and the elastic thread of elastic portion 14' are visible on right and left sides of Figs. 1-2; Abstract, col. 2, line 42 to col. 4, line 53). Each of the primary elastic members has an approximately linear portion in an approximately laterally central zone

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of the cover sheet inwardly of the opposite first and second sides keeping a constant distance from the other primary elastic member (linear portion is located on the narrowest part of the crotch portion in Figs. 1 and 2; col. 3, line 49 to col. 4, line 9; note that the claim does not require that the linear portion has any particular length). The article of Rudberg is fully capable of allowing a central zone of the skin-side surface of the cover sheet between the right and left primary elastic members to be formed as a linear raised portion by an action of a contractile force in the approximately linear portion and independent of any forces exerted by a wearer (Figs. 1-2, col. 3, line 49 to col. 4, line 9). Rudberg teaches each of the primary elastic members having at least one divergent portion extending from the approximately linear portion towards at least one of the front and rear ends of the absorbent body and outwardly to define at least one divergent pattern (divergent portion extends from the narrowest part of the crotch portion towards the ends; Figs. 1-2, col. 2, line 42 to col. 4, line 18; note for example that in the rear portion 7 the elastic threads of curved elastic portion 14' on the right and left sides of the article diverge from each other starting at the narrowest portion of the crotch, then converge, then diverge again after intersection 15, while elastic threads 19 on the right and left sides of the article diverge starting at the linear portion, and do not converge). The article of Rudberg is fully capable of allowing a divergent zone of the skin-side surface of the cover sheet in the divergent pattern to be formed as a divergent raised portion by an action of a contractile force in the divergent portion, the divergent raised portion being contiguous to the linear raised portion (Figs. 1-2, col. 2, line 42 to col. 4, line 18).

8. For Claims 12, 13, and 14, Rudberg teaches the at least one divergent portion including a front divergent portion extending from a front end of the linear portion substantially to the front end of the absorbent body, and a rear divergent portion extending from a rear end of the linear portion substantially to the rear end of the absorbent body (Figs. 1-2, col. 2, line 42 to col. 4, line 18).

9. For Claims 15, 16, and 17, Rudberg teaches the at least one divergent portion including a front divergent portion extending from a front end of the linear portion substantially to the front end of the cover sheet, and a rear divergent portion extending from a rear end of the linear portion substantially to the rear end of the cover sheet (Figs. 1-2, col. 2, line 42 to col. 4, line 18; note that the spec does not define the term "substantially").

10. For Claim 20, Rudberg teaches the cover sheet having an outer surface opposite the skin-side surface, the right and left primary elastic members being bonded in their stretched state to the outer surface of the cover sheet so that substantially all of each of the right and left primary elastic members is attached to the outer surface of the cover sheet (Figs. 1-2, col. 2, line 42 to col. 4, line 9).

11. For Claims 22 and 23, the article of Rudberg is fully capable of having the divergent raised portion formed by the action of the contractile force of the primary elastic members in the divergent portion independent of forces exerted by the wearer (Figs. 1-2, col. 3, line 35 to col. 4, line 18).

12. For Claims 24 and 25, Rudberg teaches that there are no elastic members bonded in a stretched state to the cover sheet at locations between the right and left

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primary elastic members (Figs. 1-2, col. 3, line 35 to col. 4, line 18; note there are no elastic members between the elastic threads of elastic portion 14' on the right and left sides of the article).

Conclusion

13. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on M-F 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

